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DISTRICT OF MARYLAND
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA **v.** **JOHN M. KAYS and** **MATTHEW S. BARROW,** **Defendants.**	**CRIMINAL NO.** GLR-16-0307 **(Conspiracy (18 U.S.C. § 371);** **Bribery (18 U.S.C. § 201); Forfeiture.)**

INDICTMENT

COUNT ONE

The Grand Jury for the District of Maryland charges that:

Introduction

1. At times material to this Indictment, the U.S. Army Communications-Electronics Command ("CECOM") was headquartered at Aberdeen Proving Ground ("APG"), Harford County, Maryland, and was comprised of approximately 13,000 military, civilian and contract personnel across five subordinate organizations, including the Software Engineering Center.

2. At all times material to this Indictment, the Program Executive Office Command Control Communications-Tactical ("PEO-C3T"), which is part of the Software Engineering Center, provided computer systems, radios and communications networks to Army personnel worldwide, including Iraq, Afghanistan, Africa, Syria, Pacific Theater and Europe.

3. At all times material to this Indictment, the Army used Indefinite Delivery Indefinite Quantity ("IDIQ") contracts for many service contracts and architect-engineering services. The Army typically chose multiple prime contractors who were able to perform the IDIQ contracts for a fixed number of base years. The Army could then extend the contracts for option years.

4. At all times material to this Indictment, the Army addressed individual requirements on IDIQ contracts by placing a delivery order ("DO") for supplies, or a task order ("TO") for services, against a basic contract. TOs and DOs were typically competitively bid on by the various prime contractors, which had been selected at the time of the original IDIQ contract award.

5. In and around March 2006, the U.S. Army Contracting Command ("ACC") at APG awarded a 10-year, $19.2 billion IDIQ contract to seven (7) prime contractors to provide technology services to support the integrated engineering, business operations, and logistics needs for the Army.

6. In and around April 2011, the ACC at APG placed TO 115 for services pursuant to the IDIQ contract described in Paragraph 5.

7. At times material to this Indictment, **JOHN M. KAYS ("KAYS")** was a public official; he was a civilian employee of the United States Army who worked in leadership positions for PEO-C3T and represented the Army customer on the IDIQ contracts. Specifically,

a. From September 2009 – March 2010, Kays served as the Chief of Systems Engineering for the Project Management Office, Battle Command;

b. From March 2010 – January 2011, Kays was the Project Director for Crypto and Networking Initialization, renamed Tactical Network Initialization;

c. In January 2011, Kays became the Deputy Project Manager for Mission Command, in effect the number two position for Mission Command, where he served until his resignation from government service in July 2014.

8. At all times material to this Indictment, **MATTHEW S. BARROW ("BARROW")** and his wife were the owners of MJ-6, LLC ("MJ-6"), a limited liability

corporation the Barrows formed in Ohio in 2008 to obtain military subcontracts. **BARROW** was the president of MJ-6.

9. From in and around June 2008 through in and around August 2010, **BARROW** was also employed as a Procurement Manager/Category Specialist, responsible for batch materials and industrial gases, for the glass company Pilkington North America ("Pilkington") in Northwood, Ohio.

10. At all times material to this Indictment, **BARROW** lived in Toledo, Ohio. Beginning in August 2010, **BARROW** worked full time as president of MJ-6.

THE CHARGE

11. From in and around December 2010 to in and around June 2014, in the District of Maryland and elsewhere, the defendants

JOHN M. KAYS and
MATTHEW S. BARROW

with others known and unknown to the Grand Jury, did knowingly and willfully combine, conspire, and confederate to

a. Defraud the Department of the United States Army by impairing, impeding, obstructing the lawful government function of the United States Army to procure and manage the procurement of goods and services, in contracting for services for PEO-C3T,

b. Commit offenses against the United States, specifically,

(1) being a public official, to directly and indirectly, corruptly demand, seek, receive, accept and agree to receive and accept anything of value personally and for any other person and entity in return for (a) being influenced in the performance of any official act and (b) being induced to do and omit to do any act in violation of the lawful duty of such official, in violation of Title 18, United States Code, Section 201 (b)(2)(A) and (C).

(2) to, directly and indirectly, corruptly give, offer, and promise anything of value to a public official with intent to influence any official act, and to induce such public official to do or omit to do any act in violation of the lawful duty of such official, in violation of 18 U.S.C. Section 201(b) (1) (A) and (C).

OBJECT OF THE CONSPIRACY

12. It was the object of the conspiracy for **KAYS** to enrich himself by using and agreeing to use his official position and by performing and agreeing to perform a stream of official acts in exchange for a stream of things of value, including but not limited to cash deposits, going to and for the benefit of **KAYS** from **BARROW.**

13. It was a further object of the conspiracy for **BARROW** to provide things of value to **KAYS**, intending to influence **KAYS** to take official actions for the benefit of **BARROW** and MJ – 6.

MANNER AND MEANS OF THE CONSPIRACY

14. It was a part of the conspiracy for **KAYS** to take a stream of official actions favorable to **BARROW** and MJ – 6 including adding MJ – 6 as a subcontractor acceptable to the Army customer and suggesting to prime contractors that MJ-6 be added as a subcontractor on Task Order 115.

15. It was a part of the conspiracy for **BARROW** to confer on **KAYS** a stream of benefits including cash withdrawn from MJ-6 and **BARROW**'s bank accounts in amounts of $10,000 and below, to travel from Toledo to Maryland, to meet with **KAYS** and to deliver cash payments to **KAYS.**

16. In order to conceal their corrupt scheme from the United States Army, **KAYS** and **BARROW** took steps to disguise their corrupt relationship, including making payments from

BARROW to **KAYS** in cash rather than checks or electronic transfers; making cash withdrawals in amounts less than $10,000 to avoid the federal reporting requirements, and **KAYS'** omitting the receipt things of value on Government ethics forms.

OVERT ACTS

17. In furtherance of the conspiracy and to effect its objects, the defendants committed the following overt acts in the State of Maryland and elsewhere:

a. In December 2010, **KAYS** influenced a prime contractor to include MJ-6 on its TO 115 contract proposal.

b. On or about June 20, 2011, **BARROW** withdrew $9,000 cash from a personal bank account.

c. On or about June 20, 2011, **BARROW** e-mailed **KAYS** stating, "John, I want to confirm our meeting for tomorrow… I can be at APG at 1030 or we can meet for lunch…"

d. On or about June 21, 2011, **BARROW** flew from Detroit, Michigan to Baltimore, Maryland.

e. On or about June 23, 2011, **KAYS** purchased two new vehicles, a 2011 Nissan Armada for $49,950 and a 2011 Nissan Maxima for $36,000, at an auto dealership in Bel Air, Maryland, using $10,000 in cash as part of his down payment.

f. On or about July 12, 2011, **BARROW** withdrew $9,500 in cash from Citizens Bank in Toledo, OH.

g. On or about July 13, 2011, **BARROW** withdrew $9,500 in cash from Citizens Bank in Toledo, OH.

h. On or about July 15, 2011, **BARROW** withdrew $7,000 in cash from Citizens

Bank in Sylvania, OH.

i. On or about July 16, 2011, **BARROW** withdrew $6,000 in cash from Citizens Bank in Sylvania, OH.

j. On or about July 19, 2011, **BARROW** flew from Detroit to Baltimore, Maryland at 7:30 AM EST.

k. On July 19, 2011, at 1:59 PM EST, **KAYS** paid $5,000 cash towards his vehicle loans at Maryland Federal Credit Union ("MFCU").

l. On July 19, 2011, **KAYS** paid $5,000 cash towards a credit card bill at Aberdeen Proving Ground Federal Credit Union ("APG-FCU").

m. On August 15, 2011, **BARROW** withdrew $9,800 in cash at Citizens Bank.

n. On August 19, 2011, **BARROW** withdrew $9,900 in cash at Citizens Bank.

o. On August 22, 2011, **BARROW** withdrew $2,500 in cash from Citizens Bank.

p. On August 22, 2011, **KAYS** e-mailed **BARROW** with the subject line "Directions," stating, "Off I-95… Exit 67 B… 8200 Perry Hall Blvd, White Marsh, MD".

q. On September 1, 2011, **KAYS** paid $1,550 cash towards his APG-FCU credit card bill, and $3,000 cash towards his vehicle loans at MFCU.

18 U.S.C. § 371

COUNT TWO

The Grand Jury for the District of Maryland further charges:

1. The allegations of Count One, Paragraphs One – Ten and Twelve - Sixteen are incorporated by reference.

2. From in and around December 2010 to in and around July 2014, in the District of Maryland,

JOHN M. KAYS

a public official, directly and indirectly did corruptly seek, receive, accept and agree to receive and accept things of value, that is cash from **BARROW** in the approximate amount of $157,000 in return for being induced to do or omit to do any act in violation of the official duty of such official or person, that is the awarding of subcontracts to MJ-6, including on Task Order 115.

18 U.S.C. §201(b)(2)(A) and (C)

COUNT THREE

The Grand Jury for the District of Maryland further charges:

1. The allegations of Count One, Paragraphs One – Ten and Twelve - Sixteen are incorporated by reference.

2. From in and around December 2010 to in and around July 2014 in the District of Maryland,

MATTHEW S. BARROW

directly and indirectly corruptly gave, offered, and promised things of value to a public official, namely **JOHN M. KAYS** with intent to influence official acts in the award to, and use of, MJ-6 on subcontracts for PEO-C3T contracts and to induce **JOHN M. KAYS** to do and omit to do acts in violation of his lawful duties.

18 U.S.C. §201(b)(1)(A) and (C)

FORFEITURE

The Grand Jury further finds that:

1. As a result of the offenses set forth in Counts One - Three, the defendants,

JOHN M. KAYS and
MATTHEW S. BARROW;

shall forfeit to the United States all property, real or personal, which constitutes or is derived from proceeds traceable to the conspiracy to defraud the United States and to commit bribery, and bribery, including but not limited to, the following:

(a) a sum of money equal to the value of the proceeds of the offense, which amount is at least $2,000,000;

2. As a result of the offenses set forth in Counts One – Three, the defendant,

JOHN M. KAYS

shall forfeit to the United States all property, real or personal, which constitutes or is derived from proceeds traceable to the conspiracy to defraud the United States and commit bribery, and bribery including but not limited to, the following:

(a) up to $30,000 in home improvements made to the real property located at 1314 Valley Oak Way, Bel Air, MD;

(b) a 2011 Nissan Armada Platinum 4x4, Vehicle Identification # 5N1AA0NE2BN614832, bearing Maryland license plate 5CH1731, registered to **JOHN KAYS**;

(c) a 2012 BMW 535XI, Vehicle Identification # WBAFU7C5XCDU65930, bearing Maryland license plate 5AV6101, registered to **JOHN KAYS**;

(d) a 2012 Yamaha AR 240 power boat, Hull Identification # YAMCJ139K112, Vessel Identification # MD0019CF;

(e) a set of 18 karat, white gold, box style, hoop earrings, with .94 karat weight, round, H, S.I. diamonds.

3. As a result of the offenses set forth in Counts One- Three, the defendant,

MATTHEW S. BARROW

shall forfeit to the United States all property, real or personal, which constitutes or is derived from proceeds traceable to the conspiracy to defraud the United States and to commit bribery, and bribery, including but not limited to, the following:

(a) the real property located at 2621 Liverpool Court, Toledo, OH;

(b) the real property located at 3646 Confederate Drive, Lakeside-Marblehead, OH;

(c) a 2016 GMC Yukon SLT, Vehicle Identification # 1GKS2BKC1GR177981, license plate # GRJ7552, registered to **MATTHEW BARROW**;

(d) a 2015 Buick Enclave, Vehicle Identification # 5GAKVCKD8FJ131645, license plate # GJK8638;

(e) a 2011 GMC Yukon Denali, Vehicle Identification # 1GKS2EEF0BR397662, license plate # FJD1776, registered to **MATTHEW BARROW**;

(f) a 2007 Sea Ray 290 power boat, Hull Identification # SERR3401E707, Vessel Identification # OH0002FK, registered to **MATTHEW BARROW**;

(g) a Yamaha FX HO WaveRunner, Hull Identification# YAMA2407A313, Vessel Identification# OH0277FF, registered to **MATTHEW BARROW**;

(h) any and all funds, up to $450,000, in the Fifth Third Bank savings account, number ****0155, in the name of **MATTHEW BARROW;**

(i) any and all funds, up to $500,000, in the Fifth Third Bank checking account, number ****5013, in the name of **MATTHEW BARROW;**

(j) any and all funds, up to $600,000, in the USAA Bank checking account, number ****3271, in the name of **MATTHEW BARROW**.

4. Pursuant to Rule 32.2, Fed. R. Crim. P., notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, § § 981 and 982, in the event of the defendants' conviction under Counts One - Three.

SUBSTITUTE ASSETS

5. If any of the assets described in this Indictment as being subject to forfeiture, as a result of any act or omission of the defendants,

JOHN M. KAYS and
MATTHEW S. BARROW;

(a) cannot be located upon the exercise of diligence;

(b) have been transferred, or sold to, or deposited with a third person;

(c) have been placed beyond the jurisdiction of the Court;

(d) have been substantially diminished in value; or

(e) have been commingled with other property which cannot be subdivided without difficulty;

It is the intent of the United States, pursuant to Title 18, United States Code § § 981 and 982, and Title 21, United States Code § 853, to seek forfeiture of any other property of the defendants up to the value of at least **$2,000,000**.

18 U.S.C. § 981 (a)(1)(C);18 U.S.C. § 982 (a)(2); 21 U.S.C. § 853; 28 U.S.C. § 2461(c)

Rod J. Rosenstein /yjlcmcd
Rod J. Rosenstein
United States Attorney

A TRUE BILL:

SIGNATURE REDACTED

Foreperson

6/21/16
Date